

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	WT Docket No. 01-184

**REPLY COMMENTS OF THE CELLULAR TELECOMMUNICATIONS &
INTERNET ASSOCIATION**

**CELLULAR TELECOMMUNICATIONS
& INTERNET ASSOCIATION**

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Summary

CTIA submits its reply comments in response to the comments filed with the Commission on September 21, 2001, responding to the Verizon Wireless petition seeking relief from the carrier-to-carrier porting requirements of the Local Number Portability rules for CMRS carriers. After reviewing the comments, CTIA believes more strongly than ever that the Commission should forbear from applying the LNP rules for CMRS carriers both because forbearance is the appropriate policy in this instance, and to facilitate CMRS carriers' ability to meet the November 24, 2002, deadline for implementing thousands block number pooling. The carriers uniformly urge that the Commission's rules requiring the flash-cut deployment of pooling and porting pose enormous risks to network reliability. To meet the aggressive rollout recently established for CMRS participation in TBNP, the Commission must decouple the pooling obligations from the deployment of LNP capability. CTIA also urges the Commission to reaffirm that the states lack authority to impose LNP requirements on CMRS providers.

CTIA responds to the parties advocating wireless number portability, who have failed to raise any basis to justify dismissing the wireless industry's request for relief from the November 24, 2002 porting deadline. At the very least, the Commission should grant an extension since it imposed the LNP rules on CMRS carriers without conducting a cost/benefit analysis. Furthermore, the Commission has never considered how the two separate mandates for the implementation of pooling and porting interact with one another. Finally, the Commission has never considered how the costs associated with implementing LNP impact small and rural carriers. The Commission should consider the enormous costs, potential network risks, and other burdens associated with the simultaneous mandates in light of new evidence demonstrating that the wireless industry can deploy number pooling by November 2002 without LNP.

Accordingly, CTIA believes that forbearance is the appropriate policy in this instance, and urges the Commission to grant the Verizon Petition seeking Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation.

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The Cellular Telecommunications & Internet Association (“CTIA”)¹ submits this reply in response to the comments filed with the Commission on September 21, 2001, responding to the Verizon Wireless petition seeking relief from the carrier-to-carrier porting requirements of the Local Number Portability (“LNP”) rules for CMRS carriers.² As CTIA stated in its Comments, Verizon Wireless demonstrated in its petition that the forbearance standard has been satisfied and that porting is not a prerequisite to pooling. After reviewing the comments, CTIA believes more strongly than ever that the Commission should forbear from applying the LNP rules for CMRS carriers both because forbearance is the appropriate policy in this instance, and to facilitate CMRS carriers’ ability to meet the November 24, 2002, deadline for implementing thousands block

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² See *WTB Seeks Comment on Wireless LNP Forbearance Petition Filed by Verizon Wireless*, Public Notice (rel. Aug. 7, 2001).

number pooling (“pooling” or “TBNP”). To meet the aggressive rollout recently established for CMRS participation in TBNP, the Commission must decouple the pooling obligations from the deployment of LNP capability.

I. INTRODUCTION AND SUMMARY

The comments filed by facilities-based wireless carriers overwhelming support Verizon Wireless’ Petition for Forbearance³ and agree that the criteria for forbearance have been met with regard to the implementation of LNP. In their comments, the major carriers affirm that the wireless industry can effectively meet the pooling mandate by implementing the Location Routing Number (“LRN”) and separating the Mobile Identification Number (“MIN”) from the Mobile Directory Number (“MDN”)--and that LNP is *not* a prerequisite to pooling. Responding to the evidence presented by Verizon Wireless, at least one state commission was persuaded that “the proper link is between LRN and number pooling, and not between LNP and number pooling.”⁴

The carriers uniformly urge that the Commission’s rules requiring the flash-cut deployment of pooling and porting pose enormous risks to network reliability. The comments detail the costs associated with full LNP implementation, which includes, among other things, inter-carrier communications, connecting to the Number Portability

³ *Verizon Wireless’ Petition Pursuant to 47 U.S.C. §160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation*, WT Docket 01-184 (filed July 26, 2001) (“Verizon Wireless Petition” or “Verizon Petition”).

⁴ *See* California Public Utilities Commission (“PUC”) Comments at 5. Other state commissions ignore the technology, and erroneously insist that carriers can’t comply with the technical requirements for number pooling without being LNP capable. *See* New York Department of Public Service Comments at 2.

Administration Center (“NPAC”), and establishing porting relationships with wireline carriers, which is separate and distinct from pooling.

Several LNP proponents concede that the Commission needs more information on the value of number portability and one state commission even advocates for an extension of the LNP deadline to provide the Commission adequate time to assess the costs and benefits associated with the porting requirement.⁵ Indeed, at the very least, the Commission should grant an extension since it imposed the LNP rules upon CMRS carriers without a cost/benefit analysis. Furthermore, the Commission has never considered how the two separate mandates for the implementation of pooling and porting interact with one another.⁶ Finally, the Commission should consider the enormous costs, potential network risks, and other burdens associated with the simultaneous mandates in light of new evidence demonstrated by the wireless industry that it can deploy number pooling by November 2002 without LNP.

For these reasons, and as set forth below, Verizon Wireless has satisfied the forbearance standard and established that porting is not a prerequisite to pooling. Accordingly, CTIA believes that forbearance is the appropriate policy in this instance,

⁵ Iowa Utilities Board (“IUB”) Comments at 4 (The IUB states that it “may be appropriate to grant them (wireless carriers) a further extension of the implementation deadline, for a period not to exceed 18 months.”). In addition, the California PUC “urges the Commission at a minimum to obtain further data on the value wireless customers place on their telephone numbers.” *See* California PUC Comments at 18.

⁶ After the Commission imposed the LNP mandate on wireless carriers, in a separate docket it mandated number pooling as a numbering conservation measure to prevent the misallocation and hoarding of numbers in full blocks of 10,000. Since pooling required a similar infrastructure to LNP, the numbering rules on pooling were tied to the deployment of LNP capability and covered CMRS carriers were required to implement number pooling and LNP simultaneously by November 2002.

and urges the Commission to grant the Verizon Petition seeking Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation.

II. LNP PROPONENTS FAIL TO IDENTIFY THE BENEFITS OF LOCAL NUMBER PORTABILITY

The parties advocating wireless number portability have failed to raise any basis to justify dismissing the wireless industry's request for relief from the November 24, 2002 porting deadline. Curiously, the majority of comments opposing Verizon's petition allege that its cost/benefit analysis is flawed,⁷ yet, not one of the commenters has produced any evidence that the benefits derived from number portability are commensurate with the resource-intensive costs associated with the implementation of number portability. As shown below, the LNP mandate is not necessary to facilitate the achievement of important regulatory goals and will certainly not promote the deployment of number pooling.

A. The Competitive Benefits of LNP Are Illusory

A common theme found among the comments opposing forbearance is that the industry is conspiring "to forestall the development of competition in the telecommunications marketplace."⁸ Specifically, LNP proponents threaten that relief from the porting mandate will allow carriers to: charge unreasonable rates, terms and conditions for wireless customers; impede competition, obstruct consumer choice, and stop wireless prices from their downward trend. In reality, the state commissions and

⁷ See State Coordination Group Comments at 6.

⁸ State Coordination Group Comments at 3.

other parties opposing forbearance are seeking a cure for an ailment that does not exist.⁹ Competition in the wireless industry has and will continue to thrive without LNP. The parties advocating LNP promise that LNP deployment will transform the wireless industry into a competitive one, claiming such things as “the telephone industry as a whole will be offering more options to consumers than ever before.”¹⁰ In reality, competition is flourishing in the CMRS industry and wireless customers already enjoy these promised benefits *without* LNP. Number portability is a regulatory solution intended to produce competition--something which already exists. On a limited basis and with uncertain results, foreign regulators have attempted portability to promote vibrant facilities-based competition, customer choice, and competitive prices. In the United States these conditions already exist. As recognized by the Commission in its annual Competition Report, the majority of wireless consumers have a choice of four or more service providers.¹¹

⁹ It is more than a little ironic that the very states now expressing concern over the effect of numbering policy on CMRS competition have ignored these concerns when exercising the authority delegated to them to provide critically needed numbering resources. *See In re Leap Wireless International, Inc. Request for Waiver of Numbering Resources Utilization Threshold Requirement of Commission Rule 52.12(h); Leap Wireless International, Inc. Request for Emergency Assignment of Three NXX Codes in the 412 NPA and Request for Confidentiality, Letter from Jeffrey J. Carlisle, Senior Deputy Chief, Common Carrier Bureau, CC Docket No. 99-200 (rel. Sept. 14, 2001) (directing the NANPA to assign and release two Central Office codes to Leap in the Phoenix market).*

¹⁰ Ohio PUC Comments at 7.

¹¹ *See In re Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Sixth Report, FCC Docket No. 01-192 (rel. July 17, 2001) at 6 (“Sixth Annual CMRS Competition Report”).* The *Sixth Annual CMRS Competition Report*, points out that “259 million people, or almost 91 percent of the total U.S. population, have access to three or more different operators. . . . Over 214 million

The high level of competition in the wireless industry compels wireless carriers to continue to innovate new services and offer new calling plans and more diverse calling options, *i.e.* family or affinity plans, nationwide and regional calling plans, diverse "bucket" plans including more minutes. Wireless prices have fallen 32 percent since December 1997¹² and customer churn averaged 3.25 percent a month in the last half of 2000.¹³

Nearly all LNP proponents recognized in their comments that the price of CMRS services continue to fall, and that the industry's churn rates continue to increase. Some state commissions insist that this trend does not reflect a high level of competition in the wireless industry. To the contrary, churn indicates that LNP is not a condition precedent to enabling wireless customers to change carriers for competitive benefits. ASCENT erroneously concluded in its comments that "while prices continue to decline, average monthly revenues per subscriber have now begun to rise after more than a decade of decline."¹⁴ In fact, more Americans are subscribing to mobile service and the average wireless minutes of use has increased significantly. For example, while the average local monthly bill increased 0.27 percent from June 2000 to December 2000, the actual volume of minutes used by wireless consumers increased 16.7 percent over that same period.¹⁵

people, or 75 percent of the U.S. population, live in areas with five or more mobile telephone operators competing to offer service." *Id.*

¹² Bureau of Labor Statistics Cellular Mobile Telephone Price Index, available at <http://data.bls.gov/cpi/home.htm> under All Urban Consumers, Current Series.

¹³ See CTIA Research *CTIA's Wireless Industry Indices* (July 2001) at 47.

¹⁴ See Comments of the Association of Communications Enterprises ("ASCENT") at 13.

¹⁵ See *CTIA's Wireless Industry Indices* at 142, 152.

Using a three-year period, from December 1997 to December 2000, the average local monthly bill went up 6 percent and the actual volume of minutes used by wireless consumers increased 120 percent.¹⁶ In sum, the robust competition of the wireless industry drives carriers to improve service and lower prices to retain their existing subscribers and attract new subscribers. But this emphasis on CMRS prices misses the point: it is axiomatic that prices in a competitive industry are driven to costs – every additional cost is passed on to consumers when firms’ excess margins have been eliminated by competition. As Forbes magazine recently found, that precisely describes the current state of competition in the wireless industry in the United States.¹⁷ Thus, as Section 10 of Communications Act requires, the Commission must forbear from applying the CMRS LNP requirements unless it is able to demonstrate that the benefits consumers will receive through the promotion of competitive market conditions exceed CMRS carriers’ costs in providing LNP. As noted above, the Commission, in the *Sixth Annual Competition Report*, and others have concluded that the CMRS market is extremely competitive.¹⁸ At the same time, Verizon Wireless along with other commenters have provided evidence describing the significant costs associated with providing LNP in addition to TBNP.¹⁹ There is nothing in the record that suggests consumers will be better off when the additional costs of LNP are passed through to them on their monthly bills.

¹⁶ See *id.*

¹⁷ See Opening in U.S. Cell Phones, Forbes, Sept. 17, 2001.

¹⁸ See e.g., *Sixth Annual CMRS Competition Report*.

¹⁹ TBNP also carries heavy costs, but the Commission has mandated CMRS participation in the *NRO Second R&O*, and the states, by their refusal to provide CMRS

Some state commissions wrongly equate the LNP mandate as a means to intensify wireline-wireless competition. The Communications Act already requires local exchange carriers to provide number portability.²⁰ The wireless market will not become a competitive alternative to the fixed wireline market by imposing a regulatory mandate that raises CMRS carriers' costs.²¹ Rather, the wireless industry will incur costs of over \$1 billion to satisfy a mandate that would support no new services and would increase the price differential between mobile and fixed services. CMRS carriers will become more competitive with wireline carriers if they are allowed to use resources that would otherwise be diverted to LNP implementation to improve their networks and service offerings.²²

However, should a CMRS carrier conclude that such "inter-species" LNP can enhance wireline-wireless competition on a cost-effective basis, the wireless carrier can require the wireline carrier to port customers' numbers. Section 251(b)(2) of the Communications Act obligates all local exchange carriers to provide number portability. There is no exception that permits a local exchange carrier to refuse to port a LEC

carriers with needed numbering resources, have forced CMRS carriers (and their customers) to incur these costs.

²⁰ The Telecommunications Act of 1934, as amended, §251(b)(2).

²¹ See Connecticut PUC Comments at 3.

²² The Commission's previous finding that forbearance from the LNP mandate would allow CMRS carriers the necessary flexibility to complete network build-out and make other improvements that would more immediately impact their quality of service is even more applicable now. See Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, *Memorandum Opinion and Order*, 14 FCC Rcd 3092 (1999) ("*CTIA Forbearance Order*") at ¶14.

number to a CMRS carrier.²³ Indeed, certain CMRS carriers may adopt business plans that support a wireline replacement strategy, and their individual cost-benefit analysis may justify their investment in LNP capability. LEAP Wireless, with its Cricket service, is such a carrier. Since LEAP does not offer roaming service to its customers, the only impediment to its deployment of a capability that would permit wireline customers to port their numbers is LEAP's ability to develop a business plan that justifies the investment.²⁴ Relying on the business plans of individual carriers to foster wireline-wireless competition is vastly superior to a one-size-fits-all government mandate that does not consider the complexities of the wireless market.²⁵ As noted above, competition will force CMRS providers to pass the costs of LNP through to the customer. Each carrier can best determine if its customers will benefit from this investment.

In the 1996 Telecommunications Act, Congress directed the Commission to relieve carriers of regulatory burdens whenever market conditions permit. By asking the Commission to impose a costly regulatory mandate on the competitive CMRS industry,

²³ Contrary to the claim that forbearance from the CMRS LNP mandate would discriminate between wireline and wireless carriers, Section 251(b)(2) of the Communications Act does not require CMRS carriers, but LECs to provide LNP. *See* State Coordinating Group Comments at 10 (alleging that LNP forbearance would discriminate “to the detriment of wireline carriers who already have spent millions of dollars to deploy LNP technology.”).

²⁴ TBNP capability will permit all CMRS carriers to obtain the numbering resources they need to accommodate the growing demand for wireless services. Under both Commission rules and industry guidelines, the Thousand Block Pooling Administrator cannot discriminate between TBNP-capable carriers. Thus, once CMRS carriers are able to support TBNP, there will be no linkage between LNP capability and access to needed numbering resources.

²⁵ These complexities include the capabilities of legacy technology choices and OSS systems, the presence or absence of roaming service and the capabilities of a carrier's roaming partners, and carriers' individual budgeting decisions concerning the best and most competitive use of finite capital resources.

the states are ignoring the clear Congressional direction set forth in Section 10 of the Communications Act. By allowing market forces to work, *i.e.*, by allowing CMRS carriers to respond individually to consumer demands, the Commission will best increase competition.

B. The Implementation of LNP in Other Countries Does Not Justify LNP in the United States

Based upon the limited success of wireless-to-wireless number porting in smaller countries such as Australia, one state commission is satisfied that “the wireless industry can withstand the burdens of porting.”²⁶ However, the implementation of LNP in Australia is still in infancy—only one month old—and it is still uncertain whether the public will benefit. In fact, complaints have been lodged already with the regulatory communications body and consumers and carriers alike are frustrated by the mandate.

While LNP proponents presume that wireless customers attach a high value to the ability of retaining a wireless phone numbers, the experiences in foreign countries show otherwise. For example, in Switzerland, the total number of ported numbers since March 2000 amount to less than 1.4 percent of all mobile subscribers.²⁷ In the U.K., since January 1999 the cumulative wireless ports amount to 2.3 percent of all subscribers.²⁸ Up-to-date information has not yet been located for the other nations; however, last year

²⁶ New Hampshire PUC Comments at 4.

²⁷ This can be calculated from the 72,000 ports cited in WorldCom Comments at 7, and the second quarter 2001 subscriber numbers for the Netherlands in *Global Mobile*, Vol. 1.8, No. 17 (Sept. 26, 2001) at 10.

²⁸ See *OPF MNP FG Monthly Update*, Frank Stuart-Brown (Sept. 2001) at 2, available at <http://www.oftel.gov.uk>. See also, *Global Mobile*, Vol. 1.8, No. 17 (Sept. 26, 2001) at 10.

in the Netherlands the cumulative number of ported numbers amounted to just four-tenths of one percent of all mobile subscribers.²⁹

Furthermore, the technical complexities of deploying wireless number portability in a small commonwealth state³⁰ do not even begin to compare to the complexity of nationwide, flash-cut deployment of porting and pooling. Even in European countries where wireless number portability has been mandated, the nature of the national carriers' license-areas are much simpler than in the United States, where the market structure for both wireline and wireless carriers creates a vast matrix of overlapping and simultaneous independent and interdependent networks. No countries have attempted to undertake the gargantuan task before the United States--universal porting, *i.e.*, wireless-to-wireline and wireless-to-wireless.

C. CMRS Number Portability Will Not Further the Commission's Number Conservations Goals

Contrary to the assertions made by more than one state commission,³¹ LNP capability is *not* tied to the Commission's number conservation objectives. Not only is LNP deployment not necessary for pooling, the Commission never envisioned number portability to be a numbering conservation measure. Although both the pooling and the porting mandates require similar LRN-architecture network implementation and

²⁹ See *Global Mobile*, Vol. 1.8, No. 17 (Sept. 26, 2001) at 10.

³⁰ See WorldCom Comments at 7.

³¹ The Michigan Public Service Commission ("PSC") accepts the factual evidence that LNP is *not* a pre-requisite to pooling, but insists that numbering conservation efforts will be adversely affected. See Michigan PSC Comments at 3. (Total forbearance of the LNP mandate "may render any form of conservation ineffective"). See New Hampshire PUC Comments at 8 (arguing that "LNP for wireless will enhance numbering efficiency.").

MIN/MDN separation, the pooling mandate, *not* the porting mandate, was designed to meet the important challenge of conserving numbering resources. In fact, the implementation of number portability imposes an unnecessary burden and involves an expensive process that carries the risk of undermining the Commission's number conservation efforts.

There is no basis to the claim that the benefits of pooling will be diminished until LNP has been implemented. The New Hampshire PUC wrongly claims that without LNP, donating carriers will be limited to obtaining pools of number blocks from the rate center to which they donated numbers.³² In fact, by implementing the LRN architecture and the MIN /MDN separation, CMRS carriers will be able to fully participate in pooling and realize the full conservation benefits of pooling, *i.e.*, CMRS carriers will be able to donate and draw from the pool of numbers just as the landline carriers do today. Pooling is not limited nor is it enhanced by implementing the additional steps needed for LNP. As the record clearly indicates, the extra steps required for LNP implementation, such as connecting to the NPAC and implementing the inter-carrier communication process are above and beyond what is necessary for number pooling.

The Michigan PSC's concern about the potential ability of non-LNP carriers to participate in numbering conservation measures is unfounded and inaccurate.³³ It is simply wrong that non-LNP capable carriers will be unable to participate in numbering conservation measures, such as individual telephone number porting ("ITN") and

³² See New Hampshire PUC Comments at 10.

³³ See Michigan PSC Comments at 3.

unassigned number porting (“UNP”).³⁴ LNP is *not* a prerequisite for the implementation of ITN, the numbering conservation principle that would require the industry to move from 1,000 number pooling to smaller blocks, *i.e.*, 100 number blocks, then blocks of 10 numbers, then individual numbers. CMRS carriers can support ITN by deploying the LRN-network architecture and separating the MIN from the MDN, both of which carriers must do to support TNBP. The second numbering conservation measure advocated by the Michigan PSC, UNP, has neither been recognized by the North American Numbering Council (“NANC”) as a conservation measure, nor adopted by the Commission. Furthermore, UNP is strongly disfavored since it would force all carriers to track and report number utilization on an individual number basis.³⁵

Finally, the Texas Public Utility Commission (“Texas PUC”) argues that the deployment of LNP would conserve “a huge number of telephone numbers,” that would otherwise be “stranded” when “carriers typically refrain from reassigning a telephone number, or ‘age’ the number for at least 90 days.”³⁶ The Texas PUC is mistaken, since these numbers are not stranded, but only temporarily unavailable for assignment during the aging interval. Moreover, the Texas PUC’s claim that at any one time, thirty percent of wireless numbers in Texas are stranded is wrong because wireless carriers typically

³⁴ It is presumed that the Michigan PSC’s reference to individual number porting was meant to refer to individual telephone number pooling (“ITN”), since only pooling is a conservation mechanism.

³⁵ Historically, UNP has not been considered a desirable conservation method because 1) it encourages vanity number shopping; and 2) it allows a carrier to request a number from a competitor to assign to its subscriber.

³⁶ Texas PUC Comments at 3. *See also* Maryland PSC Comments at 2.

recycle these numbers and reassign them within 30-45 days.³⁷ Thus, only about 3-4% of the wireless numbers at any given time are being aged and will be immediately reassigned. The Texas PUC's argument that LNP is necessary as a "number conservation measure that has great potential" should be disregarded. On the other hand, implementation of CMRS LNP may cause activation delays and service interruptions that would be more adverse to the public interest than a transitory aging process.³⁸

III. THE COSTS AND RISKS OF LNP IMPLEMENTATION JUSTIFY SEPARATION OF THE POOLING AND PORTING MANDATES

Based on current subscribership and churn levels, if all wireless customers who change service providers elect to retain their number, the wireless industry will port approximately 40 million numbers in the first year of LNP implementation, averaging more than 100,000 ported numbers per day. Clearly, with respect to LNP, wireless is *not* "in much the same position" as the wireline industry, which cumulatively has ported only 5 million numbers to date.³⁹ Moreover, if the wireless industry is required to simultaneously implement both TBNP and LNP, network reliability will be placed at risk due to the unprecedented volume of number ports. The costs and risks of implementing LNP justify separation of the pooling and porting mandates.

³⁷ The *maximum* time period for aging numbers previously assigned to residential customers is 90 days; however, depending on the market and the carrier's demand for numbers, it is more common for a carrier to age a number for 30-45 days. See 47 C.F.R. §52.15(f)(1)(ii). In jeopardy situations, the aging interval can be even shorter.

³⁸ See Sprint PCS Reply Comments, Declaration of Antonio Castanon, at 11.

³⁹ Ohio PUC Comments at 6 (analogizing the facilities-based CLECS to the wireless industry).

The comments of the state commissions that argue that the wireless “industry hasn’t offered any new information” with respect to the technical challenges,⁴⁰ ignore the hundreds of pages already on file in this proceeding describing the technical complexities of LNP implementation. Despite claims that the costs of LNP implementation are not substantiated,⁴¹ such estimates do exist. The LNP software and services market alone is estimated to be \$300 million in 2001.⁴² A more recent estimate of the costs of LNP implementation for the wireless industry approach \$1 billion.⁴³ “[N]o single issue will cost wireless carriers more in terms of labor and dollars as number portability.”⁴⁴ As noted above, these costs will be borne by wireless customers.

Furthermore, no new revenues will be generated as a result of LNP implementation, forcing customers to pay more for wireless services.⁴⁵ Resources spent on LNP will take away from the money and resources available for other investment, such as advanced mobile services. What is lacking is not an estimate of the costs of LNP

⁴⁰ California PUC Comments at 13.

⁴¹ See New Hampshire PUC Comments at 4; California PUC Comments at 14 (Verizon Wireless has not quantified the costs of LNP implementation); Iowa UIB Comments at 4.

⁴² See *Evolving Systems and Illuminet Announce Expanded Relationship for Number Portability Service Offering*, Business Wire, March 21, 2001, *citing* OSS Interconnection (Sept. 2000).

⁴³ See Sprint PCS Reply Comments at 4. In its Reply Comments, Sprint PCS stated that it expects to spend approximately \$218 million to implement porting and pooling. If the FCC eliminated the LNP mandate, this figure would be reduced by 65 percent, to \$77 million. If other carriers realize similar savings by not having to deploy wireless porting, the national savings would be approximately \$1 billion.

⁴⁴ The Burden of Number Portability, Charles Mason, Aug. 1, 1999. http://www.americasnetwork.com/issues/99issues/990801/990801_wireless.htm

⁴⁵ See Sprint PCS Reply Comments at 4.

implementation, but rather an estimate of the benefits customers will receive in exchange for the higher costs of wireless service. In its review of the Verizon Petition, the Commission must examine both the costs and benefits of its LNP mandate.

A transition period between TBNP and LNP is needed to avoid the network risks associated with the simultaneous implementation of porting and pooling. The Commission has repeatedly affirmed that network reliability is of “the utmost importance”⁴⁶ and determined that a staggered rollout of number pooling is necessary to preserve landline network reliability.⁴⁷

As AT&T Wireless noted in its comments, CTIA recently issued a draft report to the industry addressing the establishment of wireless number pooling.⁴⁸ The report describes what the telecommunications industry can expect when wireless carriers “turn up” pooling between August 1 and November 24, 2002. Even without the additional impact of LNP, the projected pooling volumes alone will pose a significant challenge to the CMRS industry and the existing number administration infrastructure. Specifically, CTIA predicts that 19,200 Thousands Blocks will be forecasted for the 2002 holiday season and 2,400 Thousands Blocks will be identified for donation to pools. Wireless carriers undoubtedly will require Thousands Blocks from all 160 NPAs.

⁴⁶ *Third LNP Reconsideration Order*, 13 FCC Rcd 16089 ¶10 (1998).

⁴⁷ *See First NRO Order*, 15 FCC Rcd 7574, 7646 ¶159 (2000).

⁴⁸ The Draft Report is currently being discussed among Wireless Service Providers, the Pooling Administrator, the Vendor Community and Wireline Service Providers and the Wireless Number Pooling Subcommittee.

Not only will these volumes demand tremendous administrative resources from the pooling administrator,⁴⁹ the TBNP deadline falls squarely within the busy holiday season, November 15 through January 15, when 40% of wireless growth occurs, and the resources of wireless carriers already are strained.

Anticipating wireless volumes and appreciating the strain on the current infrastructure is critical to protecting the integrity of the network. In contrast to the wireline industry's experience to date, the wireless industry will not be able to gradually step into a number pooling environment on a phased-in basis.⁵⁰ Rather, on November 24, 2002, wireless carriers will be forced to simultaneously support pooling in approximately 160 NPAs. To successfully implement TBNP, the process will require the complete and total dedication of the wireless industry and the Pooling Administrator.

Concerns regarding the integrity of the Public Switched Network's numbering resources infrastructure already have been raised, even without the stress that will be caused by adding CMRS numbers to the numbers of local exchange carriers.⁵¹ At its

⁴⁹ Approximately 4,800 Months to Exhaust (MTE) Worksheets will be submitted to the Pooling Administrator for Thousand Block Certification. 4,800 Part 1a and Part 3 submissions and returns will be passed from Service Providers to the Administrator. 19,200 Part 1b and Part 4 submissions will pass from the Service Providers to the Pooling Administrator to the NPAC.

⁵⁰ The experience of wireless pooling will vary dramatically from wireline pooling implementation since wireline carriers were able to turn up pooling on a market-by-market basis as trials began. The wireless industry will be faced with the challenge of "turning up" 160 NPAs in the same time interval next year. Additionally, wireless carriers continue to experience high growth rates.

⁵¹ Presumably, wireless ports will closely mirror wireless churn rates. A thirty percent wireless churn rate, which is currently experienced by the wireless industry, equates to 40 million subscriber changes in a 12-month period. If LNP requests even approach the current churn level, CMRS requests will account for approximately 100,000 additional ports every day, and will further strain a fatiguing network.

October 16, 2001, meeting, the NANC received a report from the North American Portability Management (“NAPM”) Limited Liability Corporation (“LLC”) regarding the network outages experienced in the North East Work Center. The Center experienced an operational failure spanning several days. A file corruption in the database, operating at a level that already is 2 1/2 times above its specifications, triggered the outage. NAPM continues to experience tremendous difficulty handling the volume of messages to and from the NPAC to the North East Work Center. Were a similar outage to occur involving CMRS numbers, each and every day, tens of thousands of customers would be denied wireless service. This is because wireless customers, unlike wireline customers, either must reprogram their wireless handset to support MIN/MDN separation, or completely replace their wireless handset due to the different air interface technologies and different frequencies utilized by CMRS carriers.

NeuStar, the North American Numbering Plan Administrator, is working with the industry to "improve service levels and service reliability by establishing minimum connectivity requirements for interconnection to the NPAC data centers."⁵² Since these issues are being worked through the Wireline LLC process, CTIA is concerned that these attempts to improve reliability will not adequately accommodate wireless porting volumes. It is critical that the Commission consider the impacts to both the wireline and wireless to protect network reliability for the PSTN and the public that relies on telecommunications services.

⁵² Number Portability Administration Center (“NPAC”) Newsletter, Portability, Ink, Second Quarter 2001, available at <http://www.npac.com/>

IV. THE LNP MANDATE DISPROPORTIONATELY BURDENS RURAL CARRIERS AND THEIR CUSTOMERS

The Commission has never considered how the costs associated with implementing LNP impact small and rural carriers. These costs are especially great when measured on a per-subscriber basis, while the benefits to subscribers are significantly less, especially outside of the 100 largest MSAs. Rural carriers face greater challenges because of their smaller subscriber base that will absorb the costs associated with these mandates.⁵³ Forbearance from the LNP mandate will allow smaller carriers to focus their more limited financial and personnel resources to meeting their obligations to provide roaming services in a number pooling environment.⁵⁴ As the Rural Cellular Association explains in its comments, many smaller carriers must expend significant resources to provide adequate service and are in the process of converting to digital technologies over the next several years.⁵⁵

V. THE COMMISSION SHOULD REAFFIRM THAT THE STATES LACK AUTHORITY TO IMPOSE LNP REQUIREMENTS ON CMRS PROVIDERS

The Commission should reject the request of the Vermont PSB for additional authority to impose LNP-related rules upon CMRS providers in the event the Commission forbears from the LNP mandate as a matter of law. The Communications

⁵³ See ALLTEL Communications, Inc. Comments (“ALLTEL Comments”) at 9.

⁵⁴ See Dobson Communications Corporation Comments at 3.

⁵⁵ See Rural Cellular Association Comments at 5.

Act “precludes a state from applying or enforcing provisions of federal law where the Commission has decided to forbear.”⁵⁶

Furthermore, allowing states to make separate requests for number porting could jeopardize nationwide roaming.⁵⁷ As Congress recognized in 1993 when it amended Section 332(c) of the Communications Act, the fact that CMRS service is provided without respect to state boundaries requires uniform federal rules and policies.⁵⁸ Moreover, the Commission has recognized the importance of preserving nationwide roaming,⁵⁹ and no individual state can accomplish this goal, but rather will only jeopardize it.⁶⁰

Wireless number portability must be developed at the national level.⁶¹ The alternative to the adoption of nationwide numbering solutions is a “patchwork” of

⁵⁶ 47 U.S.C. §160(e).

⁵⁷ The industry has maintained the position that the nationwide deployment of LNP is necessary to preserve roaming.

⁵⁸ H.R. Rep. No. 103-111, at 260 (1993), reprinted in 1993 U.S.C.C.A.N. 378, 587 (incorporated by reference in the Conference Report) (“mobile services, . . . by their nature, operate without regard to state lines as an integral part of the national telecommunications infrastructure”).

⁵⁹ See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Memorandum Opinion and Order on Reconsideration*, 13 FCC Rcd. 19009 at ¶41 (1998) (“*Pennsylvania Numbering Order*”) (stating that wireless carriers “cannot develop a localized number portability method without affecting the other states in their service areas and the carriers with whom they have roaming agreements across the country.”).

⁶⁰ If any one state is granted the authority to implement wireless number portability, the customers who have ported their telephone numbers will immediately lose roaming privileges during attempts to place a call outside the home calling area. Carriers in turn would not be able to guarantee the same service level as customers port numbers in this scenario.

⁶¹ See *Pennsylvania Numbering Order* ¶¶ 21-23.

individualized, local measures that would subject carriers to inconsistent state numbering administration regimes and impermissibly grant states the authority to regulate an issue that has no effect on number utilization within the state. Pursuant to Section 332(c) of the Telecommunications Act of 1934, as amended, state commissions are preempted as a matter of policy from imposing obligations upon CMRS carriers where the states have no legitimate interest. Moreover, the Commission repeatedly has stated that a nationwide, uniform system of numbering is essential to the efficient delivery of interstate and international telecommunications services.⁶² Thus, to avoid further controversy, the Commission should reaffirm that the states lack authority to impose LNP requirements on CMRS providers.

⁶² See, e.g., *Pennsylvania Numbering Order* at ¶ 21.

VI. CONCLUSION

CTIA respectfully requests that the Commission exercise its forbearance authority to relieve CMRS providers from their number portability obligations. Over seven months ago, CTIA petitioned the Commission to reconsider its decision not to adopt a transition between the date CMRS carriers deploy number portability technology and the date they begin number pooling. CTIA urges the Commission to decouple CMRS number pooling and porting, and grant the relief requested in the Verizon Petition.

Respectfully submitted,

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